Serial No. 10/697,217

Christopher L. Oesterling

Providing Status Data for Vehicle Maintenance

> **Filed By EFS**

Filed: October 30, 2003

Group Art Unit: 3661

Examiner: Richard M. Camby

RESPONSE TO ELECTION/RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

ELECTION

In response to the Election of Species requirement mailed May 8, 2006, Applicants provisionally elect with traverse the species disclosed in Figs. 1, 2, 4, and 5. Claims 1-6 read on the method of Figs. 2, and claims 7-13 read on the system and computer readable medium of Fig. 1.

REMARKS

This election is being filed in response to the Office Action mailed May 8, 2006. In that Office Action, the Examiner required election on the basis that there are four distinct species disclosed. Applicants note that the different figures do not disclose different embodiments (species) of a more generic concept within a single statutory subject matter class, and it is respectfully submitted that an election of species is not proper. Furthermore, the claims are not directed to different disclosed species, but are directed to different statutory classes of subject matter. Claims 1-6 are directed to processes, claims 7-12 are directed to an article of manufacture, and claims 13-18 are directed to a system of functionally interconnected apparatuses. As stated in MPEP 806.04(e):

> The scope of a claim may be limited to a single disclosed embodiment (i.e., a single species, and thus be designated a *specific species claim*), or a claim may include two or more of the disclosed embodiments within the breadth and scope of the claim (and thus be designated *a generic or genus claim*).
>
> *Species are always the specifically different embodiments.*
>
> (Emphasis in original.)

The disclosure in the four figures (Figs. 1, 2, 3, and 5) noted by the Examiner are not "specifically different embodiments." Rather, Fig. 1 depicts a notification system that includes apparatus and computer readable medium storing programming code, as recited in claims 7-18. Figs. 2 and 3 each depict a method for providing vehicle status data for maintenance purposes to a service center, and Figs. 4 and 5 show further details of how portions of the Figs. 2 and 3 methods can be carried out. The methods of Figs. 2-5 can be carried out using the system of Fig. 1. Thus, Fig. 1 is directed to different statutory subject matter than Figs. 2-5 and is not a different species. Since the functions of the computer program code of claims 7-12 and the system of claims 13-18 are the same as that of the method of claims 1-6, there is no real additional burden in considering all of these claims together since a proper search for prior art for one of these groups of claims would cover the classes and subclasses used for the other groups as well.

The methods of Figs. 2 and 3 can be considered alternative embodiments (species), however, no claims are currently directed specifically to the Fig. 3 embodiment.

Accordingly, for the reasons noted above the election is not proper and the provisional election is therefore being made with traverse. If there are any questions about this, please contact the undersigned by telephone.

Applicants believe that no fee is due; however, the Commissioner is hereby authorized to charge any deficiencies associated with this communication to Deposit Account No. 07-0960.

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Respectfully submitted,

REISING, ETHINGTON, BARNES, KISSELLE, P.C.

/James D. Stevens/
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James D. Stevens
Registration No. 35,691
P.O. Box 4390
Troy, Michigan 48099
(248) 689-3500

Date: June 8, 2006

JDS/dim